

REMARKS

Claims 1-5, 7-10, 12-22, 24-27, 29, 31-39, 41-42, 45, 49-50 and 52-56 remain pending in the application with the present amendments. In the Office Action, claims 1-5, 7-10, 12, 24-27, 29, 31-33 and 49-50 were rejected as being obvious over U.S. Patent No. 6,361,396 to Snyder et al. ("Snyder") in view of U.S. Patent No. 5,314,336 to Diamond et al. ("Diamond"). Claims 13-16 were rejected as obvious over *Snyder* in view of *Diamond* and further in view of U.S. Patent No. 5,661,470 to Karr ("Karr"). Claims 17-22 were rejected as being obvious over *Snyder* in view of *Diamond* and further in view of *Karr* and U.S. Patent No. 6,380,844 to Pelekis ("Pelekis"). Claims 34-36, 41-42 and 45 were rejected as being obvious over *Snyder* in view of *Diamond* and further in view of *Pelekis*. Claims 37-39 were rejected as being obvious over *Snyder* in view of *Diamond* and further in view of *Pelekis* and *Karr*. Finally, claims 52-56 were rejected as being obvious over *Diamond* in view of *Snyder*.

As amended herein, independent claims 1 and 9 claim apparatuses and the independent claims 26, 52 and 53 claim methods which are neither taught nor suggested by the combination of references cited by the Examiner. The apparatus recited in claim 1 includes first and second physically separate items selected from one or more mobile items operable to be carried by a user and one or more items operable to be placed at one or more respective locations. These first and second items produce first and second answer electromagnetic waves, respectively. More particularly, the apparatus is operable to associate a user-defined output including one or more first words with one or more of the first and second answer electromagnetic waves, select the user-defined output based on receiving the associated one or more of the answer electromagnetic waves, and simultaneously select a second output including one or more second words from among a plurality of

outputs based on receiving a particular one (or more) of the first and second answer electromagnetic waves. The apparatus is then operable to output the selected user-defined output combined with the simultaneously selected second output to form an intelligible phrase.

Such apparatus is neither taught nor suggested by the combination of *Snyder* and *Diamond*. Neither *Snyder* nor *Diamond* teaches nor suggests an apparatus which includes two (first and second) physically separate items having radio frequency tags operable to produce first and second answer electromagnetic waves, such apparatus being operable to associate a user-defined output including one or more first words with one or more of the first and second answer electromagnetic waves. Here, Applicants traverse the claim rejections over the passages of *Snyder* cited by the Examiner at col. 10, lns. 63-66 and col. 7, lns. 3-6, as these passages of *Snyder* fail to establish prima facie obviousness. These passages merely indicate 1) that the user is able to "alter the programming of the microprocessor" and 2) that the toy responds "as programmed" based on the identity of the object. However, *Snyder* neither teaches nor suggests that the user has any ability to alter the part of the program which associates a particular output of the toy with detection of a particular answer electromagnetic wave.

The Examiner cites *Diamond* as teaching a toy which outputs words. However, *Diamond* does not make up for a lack of teachings in *Snyder* because *Diamond* neither teaches nor suggests outputting a user-defined output including one or more first words upon receiving an associated answer electromagnetic wave, combined with a second output including one or more second words, based on receiving a particular one of the first and second answer electromagnetic waves from first and second items, respectively.

*Diamond* clearly neither teaches nor suggests associating a user-defined output with one or more of a first answer electromagnetic wave and a second answer electromagnetic wave. *Diamond* merely describes a toy which is capable of reading one or more objects printed on one item, e.g., a card. There is no ability for the user to define the output of the toy in response to its reading of an object.

Moreover, the toy described in *Diamond* is capable only of reading objects which appear together on a single card, i.e., at a location at which they can be read together (See col. 2, lns. 43-68; col. 4, lns. 56-62). Thus, *Diamond* does not meet the recitations of the presently amended claims of selecting a *first* (user-defined) output based on receiving the associated one or more of the first and second answer electromagnetic waves, the first and second answer electromagnetic waves being produced by physically separate first and second items; "simultaneously selecting a *second* output . . . based on receiving a particular one or more of the first and second answer electromagnetic waves"; and *outputting the selected user-defined output together with the second output to form an intelligible phrase*.

Indeed, *Diamond* teaches away from such concept by requiring all codes to be read to be located together on "one face of object 23". (See col. 4, lns. 56-62, col. 2, lns. 43-68). At best, *Diamond* merely describes outputting of a verbal output upon reading an object. Clearly, *Diamond* teaches away from any ability to combine a first output, selected upon receiving one or more associated answer electromagnetic waves, with a second output, selected upon receiving a particular one or more of a first and second answer electromagnetic wave, the first output including one or more first words, and the second output including one or more second words.

These distinctions apply with equal force to independent claims 9, 26, 52 and 53, as well. In each case, the

combination of *Snyder* with one or more of *Diamond*, *Karr* and/or *Pelekis* neither teaches nor suggests these distinguishing features of the presently recited invention.

Support for the present amendments is provided, *inter alia*, at paragraph [0030].

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 12, 2005

Respectfully submitted,

By 

Daryl K. Neff

Registration No.: 38,253

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicants